



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/598,848

09/13/2006

Franz Lindlbauer

WAS0808PUSA

1263

22045

7590

09/08/2009

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER

PERREAULT, ANDREW D

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

09/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10598848	9/13/2006	LINDLBAUER, FRANZ	WAS0808PUSA

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER

ANDREW PERREAULT

ART UNIT	PAPER
----------	-------

3728	20090901
------	----------

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Two transmittal letters with the following headings "Information Disclosure Statement By Applicant" and "Supplemental Information Disclosure Statement And Certification Under 37 CFR 1.97 (D) And (E)," were filed on 07/27/2009 by applicant's representative. Examiner has compared the two letters and found there to be several contradictions, including:

(1) The "Information Disclosure Statement By Applicant" states "That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1) while the "Supplemental Information Disclosure Statement And Certification Under 37 CFR 1.97 (d) and (e)" states the following contradictory statement "each item of information contained in this Statement (i) was not cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of this Statement, or (ii) was first cited in any communication from a foreign patent office in a counterpart foreign application (copy of communication enclosed) not more than three months prior to the filing of this Statement." Applicant is stating that each item was both cited and not cited in a communication from a foreign patent.

(2) The "Supplemental Information Disclosure Statement And Certification Under 37 CFR 1.97 (d) and (e)" states "While this Statement is being filed in compliance with the duty of disclosure, citation of the listed references is not to be construed as an admission that any of the references are "material" as defined under 37 C.F.R. § 1.56(b)." while Dr. Michael Schuderer in the attached letter states the following contradictory statement "I believe the documents enumerated on the enclosed Form PTO-1449 and attached thereto, are cited in a corresponding Japanese Office Action and may be material to the examination of the application." Applicant is stating that the references are both material and not material to the examination of the application.

Due to the contradictory statements provided by the applicant, the IDS provided on 07/27/2009 has not been considered by the examiner. Additionally, in regards to reference JP 60146042, applicant has neither provided the required explanation nor an abstract in English.

/Ehud Gartenberg/
Supervisory Patent Examiner, Art Unit 3728

/A. P./
Examiner, Art Unit 3728